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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,350	11/10/2003	Richard R. Turner JR.	DCT-08DV	4630

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

EXAMINER

DRODGE, JOSEPH W

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
10/705,350	TURNER ET AL.	
Examiner	Art Unit	
Joseph W. Drodge	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-25 and 32-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-25 and 32-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

The disclosure is objected to because of the following informalities: In the Preliminary Amendment, the insert to the Specification did not include the patent number resulting from issuance of the parent application (patent 6,651,825).

Appropriate correction is required.

Claims 18,21 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 18 and 25, much of the claims contain recitations redundant to independent claim 17.

In claim 21, antecedent basis is lacking for "the posts".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 32-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Kinne patent 3,282,430.

Kinne discloses rectangular frame 16 of top, bottom and side members (figure 3), knitted mesh bag or net 19, the sides and top each being tapered at member ends so as to form interference fits (figure 2). As to claims 35,40 and 45-47, the side members are tapered at their top portions inwardly and from top to bottom adjacent the top member. As to claims 34,42-44 and 48, the side members are also tapered all along its

edge if the option of choosing "angle material" is selected (column 2, lines 26-27/figure 2).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 17,19,20 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinne view of Cardwell et al patent 6,517,709. The claims differ from Kinne in requiring a clamping element and projections such that the net rim is secured between clamping element and the frame and extends over the projections. Cardwell et al teach such clamping elements 34-36 (column 2, lines 37-51) with a net or bag filter in an environment analogous to Kinne, and also shows associated screws or rivets 18 forming the recited projections. It would have been obvious to one of ordinary skill in the art at the time of the invention, to incorporate the clamping elements and projections of the Cardwell et al device into the device of Kinne, to more securely attach the filter net/bag to the frame and maintain the filter bag/net in preferred filtering position. If such modification were made to the Kinne device, the net would clearly extend over the projections, as Kinne figures 3 and 4 show the net as extending and overhanging the frame.

Regarding claims 19 and 25, see Kinne at figure 3 showing tapering side walls of the frame.

Regarding claim 20, Cardwell et al shows clamping plates and projections in various figures.

Regarding claims 22 and 23, see tension band 22' of Kinne and suggestion of such band in Cardwell et al at column 3, line 66-column 4, line 7.

Claims 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinne in view of Cardwell et al. as applied to claim 17 above, and further in view of Allard patent 6,551,023. These claims also require the frame to be plastic with holes therein and the clamping element having projections in the form of posts which insert into such holes. Allard teaches such plastic construction at column 12, lines 40-44 and clamping elements with projecting posts that fit into frame holes at figures 5 and 7 and column 7, line 51-column 8, line 59. Thus, it would have been further obvious to one of ordinary skill in the art to have utilized plastic in the forming of the frames of Kinne and to have incorporated the holes, and post-containing clamping elements of Allard in the Kinne device, to avoid corrosion problems and enable the frame to flex, as bearing weight and position of the filter bag netting changes as it fills with collected impurities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Drodge at telephone number 571-272-1140. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at 571-272-1151. The fax phone number for the examining group where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or Public PAIR, and through Private PAIR only for unpublished applications. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD

May 24, 2004

Joseph Drodge
JOSEPH DRODGE
PRIMARY EXAMINER